

REMARKS

1. Claims 6-8, 10-14 and 21-39 are pending. Of these claims, claims 6-8 and 10-14 stand allowed and claims 21-39 stand withdrawn.
2. A replacement drawing sheet was included with the previous amendment filed on March 18, 2005, to correct typographical errors in FIG. 2. The current office action does not indicate whether the replacement drawing sheet was accepted by the examiner. The examiner is respectfully requested to indicate whether or not this drawing sheet has been accepted in the next office action.
3. The allowance of claims 6-8 and 10-14 is acknowledged.
4. New claims 21-39 submitted in the amendment of March 18, 2005 have been restricted out and withdrawn from consideration by the examiner under the "election by original presentation" rules of 37 CFR 1.142(b) and MPEP 821.03. Since the only other claims remaining in the application (claims 6-8 and 10-14) stand allowed, the examiner has closed prosecution as to the merits under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213. The applicants respectfully traverse the closing of prosecution under *Ex parte Quayle*.

The closing of prosecution is improper because the applicants have not been afforded the opportunity to request reconsideration and withdrawal of the restriction of claims 21-39, under 37 CFR 1.143. The Applicants are entitled to this opportunity pursuant to 37 CFR 1.145:

If, after an office action on an application, the applicant presents claims directed to an invention distinct from and independent of the invention previously claimed, the applicant will be required to restrict the claims to the invention previously claimed if the amendment is entered, subject to reconsideration and review as provided in §§ 1.143 and 1.44.

Accordingly, the examiner is respectfully requested to reopen prosecution of the application and consider the applicants' arguments regarding the impropriety of the restriction of claims 21-39.

5. As discussed briefly above, new claims 21-39 submitted in the March 18, 2005 amendment have been withdrawn from consideration by the examiner as being independent or distinct from the invention originally claimed, and that since the applicants have received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits pursuant to 37 CFR 1.142(b) and MPEP 821.03. The examiner contends that restriction and withdrawal of claims 21-39 is proper because “[c]laims 21-39 constitute distinct and separate species from the originally elected claims.”

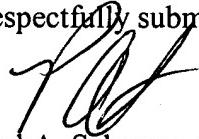
The applicants respectfully traverse the restriction and withdrawal of claims 21-39. According to MPEP 806.04(e), claims are definitions of inventions, not species, as purported by the examiner. Further, species are always specifically different embodiments.

Restriction between claims of an application should never be required when the claims define the same essential characteristics of a single disclosed embodiment of an invention, because the claims are but different definitions of the same disclosed subject matter, varying in breadth or scope of definition. (See MPEP 806.03) It is respectfully submitted that allowed claims 6-8, 10-14 and newly submitted claims 21-39 are merely different definitions of the same subject matter or embodiment disclosed in the present application, varying in breadth or scope of definition. Therefore, the restriction and withdrawal of claims 21-39 is improper.

In view of the foregoing, the examiner is respectfully requested to withdraw the restriction of claims 21-39 and consider same. The Applicants believe that the subject matter defined in claims 21-39 is allowable over the cited prior art of record.

6. Should there be any questions or matters whose resolution may be advanced by a telephone call, the examiner is cordially invited to contact applicants' undersigned attorney at his number listed below.
7. No fees are due with this communication. The Commissioner is hereby authorized to charge payment of any additional filing fees required under 37 CFR 1.16 and any patent application processing fees under 37 CFR 1.17, which are associated with this communication, or credit any overpayment to Deposit Account No. 50-2061.

Respectfully submitted,



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